IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION
WRIT PETITION NO.5199 OF 2006
WITH
CIVIL APPLICATION NO.2978 OF 2006

Bhaskar Rao Gundu ...Petitioner.
V/s.
The State of Maharashtra & Ors. ...Respondents.

Shri Rajendra Sorankar for the Petitioner.
Shri P.P.Kakade, A.G.P. for the Respondent Nos.1 and 2.
Shri A.H.Punwani for LIC, Respondent No.4.
Shri Joy K. Bhatia for Respondent No.5.

CORAM: B.H.MARLAPALLE &
J.H.BHATIA, JJ.
DATE : 20th December, 2006.

P.C.:

1. We have heard the learned counsel for the petitioner who claims to have purchased the Flat No. 702 located in Poonam Apartments, Marway Road, Malad (West) and it is the claim of respondent no.4-finance company that the said flat was hypothecated by the earlier owner and the borrower, Shri Kanjibhai R. Barot (Respondent No.5). On an application filed by respondent no.4-financial company and which application came to be registered as C.C.No.2/Miscllaneous/2006, the learned Chief Metropolitan Magistrate, Esplanade, Bombay has passed an order dated 21-4-2006 under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

The petitioner contends that he was not a party in the application submitted before the learned Chief Metropolitan Magistrate and obviously, no notice was issued to him before the impugned order was passed. He claims that his transaction with respondent no.5 is genuine and bonafide and on the other hand, respondent no.4-bank had advanced loan to respondent no.5 on the basis of alleged copies of the agreements and the original documents were not made available at any time to respondent no.4. The learned counsel for respondent no.4 disputes these allegations .

2. In any case, the order passed under Section 13(4) is appellable under Section 17 of the Securitisation Act and when a statutory remedy of appeal is provided, we do not see any reason to entertain this petition filed under Article 226 of the Constitution and we have noted that originally it was filed as criminal writ petition. The order passed under Section 13(4) is the basis for filing an application under Section 14(1) of the Act. The allegations levelled by the petitioner will have to be gone into while considering the legality of the order passed under Section 13(4) of the Act. We, therefore, dispose off this petition as not maintainable and with liberty to the petitioner to approach the lower appellate tribunal under Section 17 of the

Securitisation Act and if such an appeal is filed within a period of 4 months from today, order of status-quo passed on 21-08-2006 will continue to operate till such date an appeal is filed.

3. No orders on civil application.

(J.H.BHATIA,J.) **(B.H.MARLAPALLE,J.)**